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*Contra, Matter of Hobson*, 61 Hun (N. Y.) 504. The law is the same where rents are collected by the executor. *McPike v. McPike*, 111 Mo. 216. In the case considered, since the shares were acquired by the testator's fraud, the proceeds of their sale should be held by the executrix on a constructive trust. *American Sugar Refining Co. v. Fancher*, 145 N. Y. 552. Clearly, then, the shares and their proceeds, which were incapable of being received by the executrix in her official capacity, cannot be regarded as assets. *Campbell v. Sacray, supra*. The decision, which would make the determination of what are assets depend on their treatment by the executor, is therefore difficult to support or reconcile with authority.

EXECUTORS AND ADMINISTRATORS — RIGHTS, POWERS, AND DUTIES — RIGHT OF SET-OFF AGAINST LEGATEES OR HEIRS. — The defendant was a beneficiary under the will of A and the residuary legatee under that of B. A debt due from B to A was barred by the Statute of Limitations. The trustees of A's estate took out a summons to determine the question of the defendant's liability to the estate. *Held*, that the defendant need not bring into account the amount of the debt as against his share of the testator's estate. *In re Bruce*, [1908] 2 Ch. 682 (Ct. App., Oct. 27, 1908).

For a discussion of this case in a lower court, see 22 HARV. L. REV. 143.

EXECUTORS AND ADMINISTRATORS — RIGHTS, POWERS, AND DUTIES — WAIVER OF STATUTE OF LIMITATIONS BY INTERESTED EXECUTOR. — A promissory note was barred by the Statute of Limitations before the maker's death. One of his executors, who was also one of the payee's heirs-at-law, made a payment as executor on account of the note. The payee's administrator brought a bill in equity to recover the amount of the note, to which the maker's other executor pleaded the statute. *Held*, that the note is barred. *Haskell v. Manson*, 39 Banker and Tradesman 264 (Mass. Sup. Jud. Ct., Jan. 7, 1909).

Many of those jurisdictions which allow an executor to waive the Statute of Limitations extend the rule so as to make a waiver by one co-executor binding upon the others. *Shreve v. Joyce*, 36 N. J. L. 44; *contra, Pitts v. Wooten's Executors*, 24 Ala. 474. Assuming that this extension is adopted, it is at least questionable whether it should be carried further so as to apply to claims in which the executor has an interest. An executor may waive the statute as to his own claims against the testator that were not barred at the time of the latter's death. *Preston v. Cutter*, 64 N. H. 461. As to those that were then barred, it has been said that the executor steps into the testator's place and so can revive claims held by him in his individual capacity. *Baker v. Bush*, 25 Ga. 594. But it is submitted that the executor steps into his testator's place solely for the purpose of protecting the estate. His duty being to use his discretion as to what barred claims are well founded and just, there is an obvious practical objection to allowing him this discretion in regard to a claim in which he is personally interested. *Batson v. Murrell*, 10 Humph. (Tenn.) 301; *Hoch's Appeal*, 21 Pa. St. 280.

GENERAL AVERAGE — NATURE, CAUSE, AND MANNER OF SACRIFICE — EFFECT OF INHERENT VICE OF CARGO UPON THE RIGHT TO CONTRIBUTION. — Y & Co. shipped coal upon G & Co.'s vessel. The cargo ignited by spontaneous combustion, whereupon water was poured into the hold, damaging the unburned coal. In respect to this damage Y & Co. claimed a general average contribution from G & Co. *Held*, that, in the absence of negligence on their part, Y & Co. are entitled to contribution. *Greenshields, Cowie & Co. v. Stephens & Sons*, [1908] A. C. 431.

A cargo of garbage tankage took fire by spontaneous combustion. The whole cargo of garbage tankage was destroyed in putting out the fire. The plaintiff insurance company had to indemnify the cargo owner and sued the vessel for a general average contribution. *Held*, that the plaintiff is entitled to contribution. *Atlantic Mutual Insurance Co. v. Schooner W. J. Quillan*, 40 N. Y. L. J. 2073 (U. S. Dist. Ct., S. D. N. Y., Jan. 1909).